

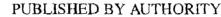
असाधारण

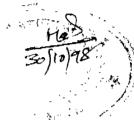
EXTRAORDINARY

भाग II--खण्ड 2

PART II-Section 2

प्राधिकार से प्रकाशित





सं∘ 31

नई दिल्ली, शुक्रवार, मार्च 27, 1998 / चैत्र 6, 1920 (शक)

No. 31

NEW DELHI, FRIDAY, MARCH 27, 1998 / CHAITRA 6, 1920

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 27th March, 1998:---

BILL No. 7 of 1998

A Bill further to amend the Income-tax Act, 1961.

Be it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Income-tax (Amendment) Act, 1998.

Short title and commencement.

- (2) Save as otherwise provided in this Act, it shall be deemed to have come into force on the 16th day of September, 1997.
- 2. In section 32 of the Income-tax Act, 1961 (hereinafter referred to as the Incometax Act), in sub-section (I), with effect from the 1st day of April, 1998,——

Amendment of section 32

- (a) before clause (ii), the following clause shall be inserted, namely:—
- "(i) in the case of assets of an undertaking engaged in generation or generation and distribution of power, such percentage on the actual cost thereof to the assessee as may be prescribed;";

43 of 1961.

(b) for the second proviso, the following proviso shall be substituted, namely:—

"Provided further that where an asset referred to in clause (i) or clause (ii), as the case may be, is acquired by the assessee during the previous year and put to use for the purposes of business or profession for a period of less than one hundred and eighty days in that previous year, the deduction under this sub-section in respect of such asset shall be restricted to fifty per cent. of the amount calculated at the percentage prescribed for an asset under clause (i) or clause (ii), as the case may be:"

Amendment of section 80-IA.

3. In section 80-IA of the Income-tax Act. -

- (a) in sub-section (1), after the words "commercial production of mineral oil in the North-Eastern Region", the words, letters and figures "or in any part of India on or after the 1st day of April, 1997" shall be inserted with effect from the 1st day of April, 1998;
 - (b) in sub-section (2), in clause (iv),--.
 - (i) in sub-clause (b), the following proviso shall be inserted with effect from the 1st day of April, 1998, namely:—

'Provided that in the case of an industrial undertaking set up in any part of India for the generation, or generation and distribution, of power, the period ending shall have effect as if for the figures "1998", the figures "2000" had been substituted;';

- (ii) in sub-clause (c), after the words "specify in this behalf,", the words and letters "as an industrially backward district of Category A or an industrially backward district of Category B and" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1995;
- (c) in sub-section (4E), after the words "North-Eastern Region", the words, letters and figures "or in any part of India on or after the 1st day of April, 1997" shall be inserted with effect from the 1st day of April, 1998;
- (d) in sub-section (5), in clause (i), in sub-clause (b), after the proviso, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1995, namely:—

'Provided further that in case of an industrial undertaking located in an industrially backward district of Category B, the provisions of this clause shall have effect as if for the words "five assessment years", the words "three assessment years" had been substituted.';

(e) in sub-section (6),—

- (A) for clause (ii), the following clauses shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1995, namely:—
 - "(ii) ten in the case of an assessee, not being a co-operative society, deriving profits and gains from an industrial undertaking specified in sub-clause (a) or sub-clause (b) or sub-clause (d) of clause (iv) of sub-section (2) or located in an industrially backward district of Category A specified in sub-clause (c) of clause (iv) of that sub-section;

- (iia) eight in the case of an assessed deriving profits and gains from an industrial undertaking located in an industrially backward district of Category B specified in sub-clause (c) of clause (iv) of sub-section (2) and such an undertaking—is not covered under clauses (i) and (ii) of this sub-section;";
- (B) in clause (iv), the following proviso shall be inserted with effect from the 1st day of April, 1998, namely:—

'Provided that where the assessee begins operating and maintaining any infrastructure facility referred to in sub-clause (ii) of clause (ca) of sub-section (12), the provisions of this clause shall have effect as if for the word "twelve", the word "twenty" had been substituted;';

- (C) in clause (viii), after the words "commercial production of mineral oil in the North-Eastern Region", the words, letters and figures "and other parts of the country on or after the 1st day of April, 1997" shall be inserted with effect from the 1st day of April, 1998;
- (f) after sub-section (7), the following sub-section shall be inserted with effect from the 1st day of April, 1998, namely:—
 - "(7A) Notwithstanding anything contained in sub-section (4A), where housing or other activities are an integral part of the highway project and the profits of which are computed on such basis and manner as may be prescribed, such profit shall not be liable to tax where the profit has been transferred to a special reserve account and the same is actually utilised for the highway project excluding housing and other activities before the expiry of three years following the year in which such amount was transferred to the reserve account; and the amount remaining unutilised shall be chargeable to tax as income of the year in which transfer to reserve account took place.";
- (g) in sub-section (12), for clause (ca), the following clause shall be substituted with effect from the 1st day of April, 1998, namely:—
 - '(ca) "infrastructure facility" means-
 - (i) a road, bridge, airport, port, rail system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette;
 - (ii) a highway project including housing or other activities being an integral part of the highway project; and
 - (iii) a water supply project, irrigation project, sanitation and sewerage system;'.

Ord. 28 of 1997

4. (1) The Income-tax (Amendment) Second Ordinance, 1997, is hereby repealed.

Repeal and saving,

(2) Notwithstanding such repeal, anything done or any action taken under the Incometax Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the Income-tax Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The general principle underlying the Income-tax law is to levy income-tax on profits or income without making any allowance or deduction on account of any capital which gets exhausted while yielding income. To this principle, there is an exception that the depreciation caused by wear and tear of assets, namely, building, plant, machinery and furniture is allowed by way of deduction under section 32 of the Income-tax Act, 1961. At present, the basis on which depreciation is to be claimed by an assessee is the written down value of the block of assets. Section 32 of the aforesaid Act, as it stands, does not provide for a straightline method of depreciation. With a view to enable power generating units to depreciate their capital assets in a straightline method at the same rate at which it is reimbursed by the State Electricity Board under the Electricity (Supply) Act, 1948, it is proposed to make amendment in section 32 of the Income-tax Act. With this amendment, there will be lower tax reimbursement by the State Electricity Board, consequently, a lower power tariff rate.

- 2. Section 80-IA of the Income-tax Act provides for a deduction in respect of profits and gains from industrial undertakings, etc., in certain cases. In order to provide incentive to mineral oil, power, highway projects and undertakings located in the industrially backward districts of the country, it is now proposed to amend this section to—
 - (i) extend the benefit of deduction available to undertakings commencing production of mineral oil in the North-Eastern region to undertakings located in other parts of country on or after the 1st day of April, 1997;
 - (ii) extend the benefit of deduction available to infrastructure facility to housing and other development activities which are integral part of a highway project with a condition that the profits of such housing and other development activities shall be ploughed back to highway projects within a period of three years;
 - (iii) extend time limit for availing the tax holiday from 12 years to 20 years in respect of highway and expressway projects;
 - (iv) extend the cut off date for availing tax benefit by undertakings which generate or generates and distributes power from the 31st March 998 to the 31st March, 2000; and
 - (v) to provide for a five year tax holiday to undertakings located in the notified industrially backward districts of category A and a three year tax holiday to undertakings located in the notified industrially backward districts of category B; subject to the condition that such undertakings begin to manufacture or produce articles or things or to operate its cold storage plant or plants at any time during the period from 1-10-1994 to 31-3-1999. In both the cases, the tax holiday period will be followed by the benefit of deduction of twenty-five per cent. of profits (thirty per cent. in case of companies) for five years to the eligible undertakings.
- 3 As the House of the People had been dissolved and the Council of States was not in session, the Income-tax (Amendment) Second Ordinance, 1997 (Ord. 28 of 1997) was promulgated on the 26th December, 1997 to achieve the above objects.
 - 4. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI, The 24th March, 1998. YASHWANT SINHA.

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 142/8/98-TPL, dated the 25th March, 1998 from Shri Yashwant Sinha, Minister of Finance to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the proposed Bill the Income-tax (Amendment) Bill, 1998 to amend the Income-tax Act, 1961, recommends under clause (1) of article 117 and clause (1) of article 274 of the Constitution of India, the introduction of the above Bill in Lok Sabha.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to amend section 32 of the Income-tax Act relating to depreciation. The proposed amendment seeks to provide that in the case of assets of an undertaking engaged in generation or generation and distribution of power, deduction in respect of depreciation shall be such percentage of the actual cost of such assets as may be prescribed by the Central Board of Direct Taxes.

- 2. Clause 3 of the Bill seeks to amend section 80-1A of the Income-tax Act relating to deduction in respect of profits and gains from industrial undertakings, etc., in certain cases. The proposed amendment seeks to empower the Central Board of Direct Taxes to prescribe the basis and manner of computation of profits of housing and other activities which are an integral part of the highway project and such profits is to be utilised for the highway project excluding housing and other activities before the expiry of three years following the year in which such amount was transferred to the reserve account. The proposed amendment also seeks to empower the Central Government to specify the districts of the country as Category A or Category B industrially backward districts for the purpose of this section.
- 3. The matters in respect of which notifications may be issued or rules may be made in accordance with the aforesaid provisions of the Bill are matters of procedure and detail and it is not practicable to provide for them in the Bill itself.
 - 4. The delegation of legislative power is, therefore, of a normal character.

S. GOPALAN,

Secretary-General.